



L4/13

24 August 2015

The Secretary
ARLA
Ministry of Justice
Tribunals Unit
DX SX11159
Wellington 6011

Dear Secretary

BULLER DISTRICT COUNCIL ANNUAL REPORT FOR YEAR ENDED 30 JUNE 2015

Overview of District Licensing Committee Workload

There have been no changes to the structure or personnel which remain as follows:

Structure and personnel

Secretary Paul Wylie is the CEO of the Buller District Council but has delegated his role as Secretary of the District Licensing Committee to Craig Scanlon who is the manager of Community and Environmental Services Department.

Chief Licensing Inspector Joy Donaldson
Licensing Inspector Atila de Oliveira
Administration Officer Gail Dickson

The Buller District Licensing Committee as approved by Council on 27/11/13 is comprised of the following:

Chairperson Graeme Thomas Neylon
Committee Members Phillip John Rutherford (Deputy Chairperson)
Terence Neil Archer
Hamish Lindsay Macbeth
John Hill

Any staff training undertaken re SSAA12

The Chief Inspector and Administration Officer attended the 'One Year On: The Sale and Supply of Alcohol Act 2012' in Christchurch on 24/03/15. The forums were held to reflect on how the Sale and Supply of Alcohol Act 2012 was working towards its object one year into its implementation.

The chief inspector and administration officer have attended West Coast Liquor Liaison meetings which are held in either Hokitika, Greymouth or Westport approximately three or four times per year and which are attended by inspectors, DLC admin staff, Police and Health representatives from the three West Coast Territorial Authority areas. This forum is used to share information, identify areas where a collaborative approach can be achieved but also where frank discussions can take place where all parties listen and acknowledge each others views even when there is no unanimous agreement . This is particularly important as the Alcohol Harm Reduction Officer for the Police and the representative for the Medical Officer of Health cover all three DLC areas.

The current focus is on attempting to create a collaboration document which addresses the roles to be taken by each of the agencies in conducting inspections, an agreed system of how and when sharing of information between agencies is to be achieved and a standardised risk/action model based on local conditions indicating actions to be taken in relation to various triggers which will create a consistent approach to the same problems no matter where on the Coast the premises are located

The CollaborAction online learning module for Licensing Inspectors, public health alcohol regulatory staff, NZ Police and NZ Fire is now operational but seems to be limited to providing additional information to help in interpreting the Act.

DLC meetings or hearings

The DLC determined a total of 18 licence renewals, 8 new licences, 49 new managers certificates, 55 manager's certificate renewals, 33 special licences and 12 temporary authorities. One hearing has taken place where opposition was brought by the Medical Officer of Health in relation to the renewal of on and off licences, and in particular to the requested hours of operation, which was not sustained and the hours of operation remained unchanged. It is noted that all members of the DLC were present at this hearing to allow them to gain experience.

Any noticeable trends or issues faced by the DLC

Many hotels and taverns are electing to not renew their off licences in response to the large increase in annual and renewal fees and the limited sales due to discounted prices in supermarkets.

The workload for inspectors and administration staff has not reduced with the coming financial year being particularly difficult as existing club licences are all due for renewal.

Local Alcohol Policy

A draft Local Alcohol Policy (LAP) was adopted at the 27/11/13 Council meeting and the special consultative procedure ran from 2/12/13 through to 31/01/14. 319 written submissions were received with 50 submitters indicating that they wanted to be heard. However the Council resolved at a meeting on 17/12/14 to

“Defer making any further decisions in relation to the Buller District Council Draft Local Alcohol Policy until the first available opportunity after the release of the following:

- *The guidance material being prepared by Local Government New Zealand in relation to Local Alcohol Policies;*
- *The Alcohol Regulatory and Licensing Authority’s decision on the appeals against the provisional Local Alcohol Policy of the Waimakariri District Council; and*
- *The Alcohol Regulatory and Licensing Authority’s decision on the appeals against the provisional Local Alcohol Policy of the Wellington City Council.”*

The last of these documents were released in time for a report to be put on the agenda of Council’s 30 June 2015 meeting which then resolved the following:

“That Council form a working group consisting of two Councillors, the Manager Community and Environment, Team Leader Planning and Policy and representatives of the Police, Licensing Inspectors, the Medical Officer of Health and hospitality industry to make a recommendation to Council on whether to proceed with the current Draft Local Alcohol Policy or to withdraw and start again.”

This working group is due to meet for the first time on 28 August 2015.

Current legislation

Issues

Eighteen months on from the introduction of the Sale and Supply of Alcohol Act 2012 the number of issues in the wording or interpretation of the Act continues to grow with no amendments imminent. These issues cause huge problems to all those who work with this Act but particularly to inspectors and DLC’s. The NZ Institute of Liquor Licensing Inspectors continues to be the main source of gaining information and resolution of issues but this often merely highlights further anomalies within the Act and the varying ways DLC’s and inspectors are interpreting it.

The requirement for Temporary Authority applications to be heard by a full committee and not just the Chairperson when no objections have been received remains an issue as there is usually pressure to get these out to allow new owners to commence operating. There does not appear to be any reason why unopposed applications cannot be dealt with by the Chairperson as the temporary authority is limited to the conditions of the existing licence/s and the legislation would only need to be amended to require Police approval to ensure the suitability of the applicant to hold a Temporary Authority.

The compulsory conditions relating to the display and promotion of alcohol in a single area in supermarkets and grocery stores (ss.112-115) has still not been adequately dealt

with and remains an issue for inspectors and DLC's when deciding whether an area is likely to comply.

The wording around expiry dates on licences and managers certificates remains complicated and confusing. All that was needed was that a new licence/certificate be issued when required with the new expiry date, no need for the current cumbersome and confusing wording. This could link to any previous licences by using suffixes eg original licence was 54/ON/23/2014 the renewed and new licence number could be 54/ON/23A/2014 etc. This would also remove the confusion about what should be displayed on site as there would only be one licence showing the correct expiry date instead of the current system whereby the original licence must be displayed which does not identify the expiry date as this is on the renewal notice which is not required to be displayed.

The date that annual fees are due for licences originally issued under the Sale of Liquor Act 1989 is also open to interpretation. The date on which the annual fee is payable for such licences is

“the anniversary of the most recent of the following:

- (a) **date** on which the licence was issued
- (b) the **date** on which the licence was renewed
- (c) the **date** on which a variation of the licence was granted.

The date on which the renewal or variation is granted may be earlier or later than the actual anniversary date of the licence. In the case of renewals where objections have been made and a hearing is required this date may be some months after the anniversary date of the licence. If the wording above is taken at face value the due date for the annual fee may be less than 12 months (for applicants who are efficient and proactive and get their licence renewals in plenty of time and in which case they will be punished by not getting the full 12 months previously paid) or more than 12 months when applications are received closer to the expiry date and/or when objections are received and a hearing is required (in which case the applicants get more than 12 months). In addition attempting to then work out when to send out annual fee invoices to applicants is impossible as there is no constant expiry date.

A large amount of time is also spent requesting additional information from applicants to enable the inspector to write a report which addresses all the required criteria as listed in the Act. This is mainly due to the current licence application forms not having appropriately worded questions or sufficient questions to provide this information.

Positives

Licensees are becoming more aware of the consequences of failing to comply with the Act particularly in regard to intoxication and selling to minors. This is mainly in response to media publicity over suspension periods but also the monetary penalty of a holding in relation to annual fees and renewal fees.

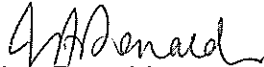
Any other matter the TA might wish to draw to the attention of the Authority

The Medical Officers of Health (MoH) appear to have a national plan to limit licence hours by directly approaching applicants and strongly suggesting to them that they should do this and this is considered to be verging on coercion. Licensees have contacted the inspector enquiring whether they are required to amend their hours. MoH have now advised that they will no longer object to an application if the licence hours are not reduced but this information is not necessarily being relayed to the applicant. Without any specific evidence relevant to the premises to indicate that reduced hours are likely to promote the object of the Act it is my belief that any limitation in hours should be by the LAP process.

A number of clubs have voluntarily limited their hours after discussions about how the hours may affect their current very low or low risk rating. Clubs were initially assessed on the likely hours of operation of the bar but were advised that when their licences were due for renewal the hours of operation will be taken in to account in assessing this rating.

Statistical Information

Please find attached the annual return for the Buller District.


Joy Donaldson

CHIEF LICENSING INSPECTOR

on behalf of the **BULLER DISTRICT COUNCIL**



Alcohol Regulatory and Licensing Authority Annual Return

TERRITORIAL AUTHORITY: Buller District Council
ANNUAL RETURN FOR: 1/07/14 to 30/06/15

Fees Payable to ARLA

On-Off-Club Licences	\$34.50	\$138.00	\$1,138.50	\$0.00	\$0.00	\$1,311.00
Annual Fees	\$207.00	\$276.00	\$2,173.50	\$172.50	\$0.00	\$2,829.00
Manager Cert New						\$948.75
Manager Cert Renew						\$1,667.50
Total Payable						\$6,756.25

On-licence, off-licence and club licence applications received

Application Type	Very Low	Low	Medium	High	Very High
On-licence new		3	3		
On-licence variation					
On-licence renewal	1	1	13		
Off-licence new					
Off-licence variation					
Off-licence renewal			6		
Club licence new					
Club licence variation					
Club licence renewal	1				
Total number	2	4	22	0	0
Total Fee paid	34.50	138.00	1,138.50	0.00	0.00

Annual fees for existing licences received

Application Type	Very Low	Low	Medium	High	Very High
On-licence	3	4	31		
Off-licence		2	11	2	
Club licence	9	2			
Total number	12	8	42	2	0
Total Fee paid	207.00	276.00	2,173.50	172.50	0.00

Managers' certificate licence applications received

Manager's certificate new	33
Manager's certificate renewal	58
Total number	91
Total Fee paid	2,616.25

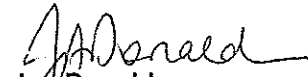
Special licence applications received

	Class 1	Class 2	Class 3
Special licence	6	8	15

Temporary authority applications received: Temporary authority :

11

Permanent club charter payments received:


Joy Donaldson
Chief Licensing Inspector
Buller District Council

Dated at Westport, 25 August 2015